



World Wide Fund for Nature - New Zealand
PO Box 11514, Manners Street,
Wellington 6142

Committee Secretariat
Environment Committee
Parliament Buildings
Wellington
en.legislation@parliament.govt.nz

Submission on the Resource Management (Consenting and Other System Changes) Amendment Bill - Addressing the Resource Management 1991 – Fisheries Act 1996 Interface

Introduction

As one of the leading environmental Non-Governmental Organisations (eNGOs) in New Zealand, World Wide Fund for Nature New Zealand (WWF) supports science-based, pragmatic solutions that can deliver a future where humanity lives in harmony with nature. WWF appreciates the opportunity to make a submission on the Resource Management (Consenting and Other System Changes) Amendment Bill to the Environment Select Committee.

Although this Bill proposes amendments to multiple provisions in the Resource Management Act 1991 (RMA) relating to different sectors, our submission is focused on amendments relating to farming and the primary sector, specifically the interface between the RMA and the Fisheries Act 1996.

We are in the midst of a global biodiversity crisis with New Zealand having one of the highest rates of extinction per capita. We know that our coastal waters are already experiencing massive ecological shifts evidenced by kina barrens and collapses of fish and shellfish stocks, and this is due to numerous cumulative pressures. If we are to have a chance at reversing this damage, achieving the protection of 30% of our ocean territory and reducing human-induced extinctions, in line with Targets 3 and 4 of the Kunming-Montreal Global Biodiversity Framework, must be of high priority for the New Zealand Government. Given New Zealand has less than half a percent of our more than four million square kilometres marine jurisdiction - one of the largest in the world - in any form of high protection, we consider the proposed amendments to RMA “rules that control fishing” woefully ignores the critical need to address pressures on our marine environment. A recent poll commissioned by WWF shows that New Zealanders are overwhelmingly supportive of marine protection. The poll revealed that 81% of New Zealanders think Marine Protected Areas in Aotearoa should be expanded.¹

The proposed amendments unnecessarily constrain regional councils’ ability to consider and appropriately manage localised fishing impacts on marine biodiversity by restricting the ability for these areas to be identified by the public, shifting decision making powers away from councils to

¹<https://wwf.org.nz/sites/default/files/2025-01/Horizon%20Research%20-Ocean%20Survey%20Report%20FINAL.pdf>

Fisheries New Zealand, and delaying the legal implementation of controls. We agree that it is important to have clear delineation of roles and responsibilities under the two Acts and consider this was adequately provided for through guidance from the Court of Appeal in the *Attorney-General v The Trustees of the Motiti Rohe Moana Trust & Ors 2019* (the *Motiti* decision). The provisions in this Bill appear to be heavily in favour of reducing regulatory burden for fishers only rather than helping to address why the *Motiti* decision came into effect in the first place: the Fisheries Act tools weren't sufficient in managing localised fishing pressures.² For these reasons, WWF New Zealand strongly opposes these amendments. We provide further detail on our position and concerns in this submission.

This Bill makes it harder for councils to put in controls to protect marine biodiversity amidst a biodiversity crisis

We are in the middle of a biodiversity crisis, quickly approaching a 6th mass extinction caused by humans. Biodiversity in Aotearoa New Zealand is unique and essential to our culture, identity, and well-being. As of 2023, 94% of our reptile species, 82% of bird species, 80% of bat species, 76% of freshwater fish species, 22% of marine mammal species and 46% of vascular plant species are either facing extinction or are at risk of being threatened with extinction.³ The major decline in our indigenous biodiversity is largely the result of the substantial reduction in the extent and quality of natural habitats. Pressures on our environment continue to degrade ecosystems including pressures of land-use change and intensification, pollution, natural resource use, climate change, and invasive species.⁴

New Zealand has one of the largest ocean territories in the world, 15 times larger than our landmass, yet less than half a percent of this area is protected.⁵ Our marine environment experiences many pressures, including climate change, and requires more flexible and adaptable tools to be employed. Marine ecosystems are complex and every region has its own context that should factor into how it is managed. There is a distinct and important role under the RMA to identify and protect indigenous biodiversity, including for intrinsic purposes. The RMA can be used to address effects on matters such as maintenance of significant biodiversity and habitats, or enhancement of the quality of the environment while these effects are not explicitly considered under the Fisheries Act.

The ability for councils to utilise existing tools to protect marine biodiversity is particularly important considering the only other tool available under the Marine Reserves Act 1971 is not fit-for-purpose and can take an average of 12-13 years to be put in place. WWF agrees it is important to have clear roles and responsibilities under the two Acts, particularly with respect to when and how certain management actions are deployed that might affect fisheries. However, the Courts have confirmed that tools under the RMA and the Fisheries Act are complementary and have set out guidelines for future use of RMA tools, such as necessity, scope and scale. The Court's guidance is valuable and held that regional councils have the primary governance role in maintaining indigenous biodiversity through the RMA.

² *Attorney-General v The Trustees of the Motiti Rohe Moana Trust & Ors* [2019] NZCA 532

³ <https://www.stats.govt.nz/indicators/extinction-threat-to-indigenous-species/>

⁴ Ministry for the Environment & Stats NZ (2022). *New Zealand's Environmental Reporting Series: Environment Aotearoa 2022*. Retrieved from environment.govt.nz.

⁵ Department of Conservation 2019: *New Zealand's Sixth National Report to the United Nations Convention on Biological Diversity*. Reporting period: 2014–2018. Department of Conservation, Wellington, New Zealand.

Unfairly prioritises fisheries objectives and limits ability for community-driven solutions

The first proposed amendment sets criteria to direct councils on how to evaluate the impacts of controls on fishing when considering them in a regional plan. The proposed criteria includes such things as the extent to which rules will increase the cost of fishing and whether the rules would affect the ability to take aquatic life for commercial and non-commercial purposes.

Notwithstanding that such criteria solely focused on fishing impacts would likely lead to most proposals deemed to 'unreasonably' affect fisheries and therefore unable to be approved in plans, it also ignores the fact that controls on fishing activities imposed in RMA plans are to ensure that councils are maintaining indigenous biodiversity - a function of councils under s 30 of the RMA that was confirmed by the Court of Appeal in the Motiti decision. The Courts have clarified when tools under the RMA are to be used (i.e., not for Fisheries Act purposes) and therefore, there is no need for an additional criteria to consider impact on fisheries.

The second proposed amendment would limit the ability for new areas that prevent fishing activity to be added based on third party submissions, as well as new fishing controls being requested by the public. Only councils could propose and notify new fishing controls, and once notified, public submissions would be limited to input regarding the boundaries, such as clarifying the boundaries or reducing the boundaries. Regional councils would then only be able to make "minor adjustments" to the boundaries despite public submissions that might suggest otherwise.

Members of the community often offer invaluable information and insights to councils about biodiversity hot spots, and witness firsthand the effects of pressures, such as fishing, on species and habitats. The proposed approach makes it more challenging for the public to identify inadequacies in regional coastal plans, and means that councils may not receive all relevant, available information to inform their plans. The RMA envisions rigorous and participatory decision making and the proposed changes run counter to that core principle. We also note that many of the regional councils that have included controls on fishing activity to protect high value biodiversity - Northland, Bay of Plenty and Marlborough - have all done so through the submissions process, and were necessary because the areas had inadequate protection under the Fisheries Act. This amendment would likely lead to further degradation or loss of important marine indigenous biodiversity and habitats, and therefore WWF opposes it.

Gives broad discretion to the Director-General of Ministry for Primary Industries (MPI) who has no role in protecting indigenous biodiversity under the RMA

The Bill proposes to establish a quality assurance role for the Ministry for Primary Industries (MPI) Director General and requires a fishing impact assessment to be submitted and approved by the MPI Director General. This amendment sets a dangerous precedent in having fishing interests unduly influence community priorities and interfere with council processes and timeframes. The amendment in clause 4B of Schedule 1 of the RMA states:

"The Director-General may concur with the assessment (or a revised assessment) only if they are satisfied that the assessment has given appropriate consideration to the impacts of the rule on fishing in accordance with the requirements of section 32(2A)"

There is a lack of clarity on what defines 'appropriate', leaving a fair bit of discretion to the Director-General as to whether a council has appropriately considered the impact of a rule on fishing or not. In addition, it is not apparent how transparent this process would be to the public. Again, imposing fishing controls under the RMA for the purpose of maintaining indigenous biodiversity is a

core function of regional councils. This function should not be trumped by the Director-General who has no role in protecting indigenous biodiversity. The concurrence role is unnecessary, adds additional requirements and costs on councils when they are already resource-strapped, and unduly favours fishing interests.

This Bill lacks cross-agency development, stakeholder consultation and has rushed timeframes

One of the limitations and constraints noted in the Regulatory Impact Statement (RIS) for this Bill was that time and resourcing pressures have placed constraints on the ability to undertake cross-agency policy development, and engagement/consultation with Treaty partners and stakeholders. It was recognised by the Quality Assurance Panel that the compressed time frame and limited consultation had narrowed the range of options and the level of supporting evidence and analysis of the proposed options before landing on these proposals. No quantitative evidence on costs and benefits of each option was provided due to data and time limitations. This lack of evidence in the analysis therefore resulted in an inconclusive analysis of the options.

Conclusion

In Aotearoa New Zealand, our biodiversity is an integral part of our identity and our well-being. We are in the midst of a biodiversity crisis and protecting and enhancing our biodiversity should be of utmost importance. We have one of the largest marine territories globally, yet less than half a percent is protected. Our marine environment faces many pressures that merit protections at a variety of spatial scales, including more localised, regional levels.

There is a distinct and important role under the RMA to protect indigenous marine biodiversity that the Fisheries Act cannot address. Tools under the Fisheries Act are not adequate in addressing more localised pressures of fishing. We consider that a full range of tools and management actions are necessary to help protect and restore our marine ecosystems. The ability for regional councils to place controls on fishing is critically important if we don't want to see our treasured marine life lost forever. We need more flexible and adaptable tools that can consider unique local circumstances and priorities that enable community-driven solutions to protect the moana, not fewer.

WWF would like to request to appear in front of the Select Committee and speak to our recommendations in this submission.